

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARK A. FREGIA,

Plaintiff,

v.

YUCUI CHEN, et al.,

Defendants.

No. 1:20-cv-01024-KES-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF'S MOTIONS FOR ORDERS
UNDER THE ALL WRITS ACT

(Docs. 60, 104, 107)

Plaintiff Mark A. Fregia ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed separate motions under the All Writs Act seeking an injunction and an order requiring prison officials to return legal documents he claims they confiscated. Docs. 60, 104. The magistrate judge issued findings and recommendations on July 14, 2023, recommending that Plaintiff's motions be denied. Doc. 107. The findings and recommendations were served on Plaintiff and contained notice that any objections were to be filed within fourteen (14) days after service. On August 7, 2023, the magistrate judge granted Plaintiff an extension of time to August 10, 2023, to file any objections. Doc. 112. Plaintiff timely filed objections on August 9, 2023. Doc. 113.¹

¹ Subsequently, on August 22, 2023, Plaintiff filed a document that purported to provide supplemental evidence regarding his motions for orders under the All Writs Act. Doc. 115. Plaintiff's supplemental filing failed to comply with the Court's August 10, 2023, deadline for the filing of objections. On March 29, 2024, the assigned magistrate judge granted Defendants'

1 In accordance with 28 U.S.C. § 636(b)(1), this Court has conducted a de novo review of
2 this case. Plaintiff's objections largely reiterate arguments made in his motions. Plaintiff
3 continues to fail to explain with clarity and specificity the missing legal materials or how
4 Defendants' supervisors or staff at Mule Creek State Prison are currently impeding his ability to
5 litigate this action. As set forth in the findings and recommendations, this stands in contrast to the
6 declarations and exhibits filed by Defendants, which explain the efforts undertaken to investigate
7 Plaintiff's allegations and to ensure Plaintiff's access to his legal property.

8 Having carefully reviewed the filings, including Plaintiff's objections, the Court
9 concludes the findings and recommendations are supported by the record and proper analysis.²

10 Accordingly, IT IS ORDERED that:

- 11 1. The findings and recommendations issued on July 14, 2023, Doc. 107, are ADOPTED IN
12 FULL;
- 13 2. Plaintiff's motion for an order under the All Writs Act, Doc. 60, and third motion for an
14 order under the All Writs Act, Doc. 104, are DENIED; and
- 15 3. This matter is referred back to the assigned magistrate judge for further proceedings.

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18 IT IS SO ORDERED.

19 Dated: April 1, 2024


UNITED STATES DISTRICT JUDGE

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21 motion to strike Plaintiff's supplemental filing. Docs. 118, 142. Moreover, the Court notes that
22 Plaintiff's supplemental filing did not identify any specific factual or legal disputes with the
23 findings and recommendations.

24 ² The magistrate judge's decision also included orders denying Plaintiff's request to disqualify the
25 State Attorney General's Office, denying Plaintiff's request for a stay, and granting in part
26 Plaintiff's request for an extension of time to file his opposition to Defendants' summary
27 judgment motion. Doc. 113. To the extent Plaintiff's objections seek reconsideration of these
28 orders, the Court has conducted a review of the orders pursuant to 28 U.S.C. § 636(b)(1)(A) and
finds they were not clearly erroneous or contrary to law. *See Security Farms v. Int'l Brotherhood
of Teamsters*, 124 F.3d 999, 1014 (9th Cir. 1997) ("review under the clearly erroneous standard is
significantly deferential, requiring a definite and firm conviction that a mistake has been
committed").

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